
(2022) 12 TEL CK 0050

High Court For The State Of Telangana:: At Hyderabad

Case No: Appeal Suit No. 372 Of 2012

B. Anasuyamma Died
Per Lr 2nd Plaintiff

APPELLANT

Vs

B. Madhusudhan
Reddy

RESPONDENT

Date of Decision: Dec. 12, 2022

Acts Referred:

- Hindu Succession Act, 1956 - Section 6
- Evidence Act, 1872 - Section 68

Hon'ble Judges: P.Sree Sudha, J

Bench: Single Bench

Advocate: K Sreenivas, A M Qureshi

Final Decision: Dismissed

Judgement

1. This appeal suit is filed against the Judgment of the trial Court in O.S.No.250 of 2007 dated 09.04.2012.

2. Plaintiffs filed suit for declaration of title and for perpetual injunction and also for declaration that the registered Gift Deed vide document

No.4257/2007 dated 24.04.2007 as illegal void and not binding on the plaintiffs. Plaintiffs also filed O.S.No.555 of 1977 for partition and first defendant

along with others filed O.S.No.263 of 1978 for injunction. The trial Court passed Common Judgment in both the suits on 21.04.1984. The suit in

O.S.No.263 of 1978 filed for injunction was decreed and O.S.No.555 of 1977 is partly allowed regarding the plaint B and C - Schedule

properties/houses. As the lands were already allotted to them under Ex.B327 family settlement, Court also declared that both the plaintiffs are entitled

for 1/3rd share in plaintiff B and C Schedule properties which were in the possession of the first defendant as on the date of her death. As this appeal is

filed after the disposal of the prior suits, this Court finds it reasonable to mention the important facts in the Common Judgment passed in O.S.No.555

of 1977 and O.S.No.263 of 1978 for the sake of convenience and for arriving to the proper conclusion.

3. One B.Manikyamma is the wife of Venkat Reddy. They had three sons Sudhakar Reddy, Madhusudhan Reddy and Janardhan Reddy. Venkat

Reddy and Sudhakar Reddy were murdered during Razakar moment in 1948. Wife of Sudhakar Reddy i.e, Anasuyamma filed suit in O.S.No.555 of

1977 for partition against her mother " in " law/defendant No.1 and two brothers of her husband i.e, defendant Nos.2 and 3. She stated that she

adopted second plaintiff on 25.05.1975 and he also became member of the Hindu Joint Family. As the trial Court relied upon partition entered between

the first plaintiff and defendant Nos.1 to 3 in the year 1959 itself, in view of the family settlement under Ex.B327 observed that it need not be decided

whether the adoption of the second plaintiff is valid or not as the first and second plaintiffs are entitled for the share of her husband Venkat Reddy and

thus the said point was not dealt with. She claimed 1/3rd share in the joint family properties. She stated that they were having house measuring an

extent of 984 Sq.yards at Himayatnagar which was purchased in the name of her husband, but the house was constructed by the second defendant

with the joint family funds and it is shown as " schedule property. Their family also having house at Karkalpahad village and it is shown as

" schedule property. She stated that defendant No.3 was addicted to bad vices and he was not showing any interest in the family affairs and

properties, he is under the dictates of the second defendant. The second defendant was in Government service, taking advantage of the same, he was

taking substantive benefit from the properties as such she along with the third defendant got issued a registered legal notice on 07.02.1977 calling the

second defendant for partition of the properties into three equal shares and to allot one share to each. The first defendant did not give any reply but the

second defendant gave reply in which he stated that there was family arrangement between them in the year 1959 and the landed properties were

adjusted and divided between two brothers and plaintiff No.1. Plaintiff stated that their family was having properties at Kadthal, Karkalpahad and

Vampugudem villages, some of the properties at Karkalpahad village were lost by them under Section 38 of the Tenancy Act. She also stated that the

third defendant is enjoying the land covered by Sy.Nos.2, 3, 70, 94, 121, 130, 131/2, 135 to 137 situated at Vampugudem and Karkalpahad villages.

The second defendant is enjoying the lands covered in Sy.Nos.10, 13 to 15 situated at Vasudevapuram along with the house at Himayatnagar. The

plaintiffs are in possession of the lands covered under Sy.Nos.2, 3, 10, 70, 94, 121, 130, 131/2, 135 to 137 situated at Karkalpahad and Vampugudem

villages. She stated that lands allotted to the defendant Nos.2 and 3 earns good income and they are liable to account for the income realized from the

land and from the building and to pay 1/3rd share to them. She also stated that though the third defendant joined her while issuing legal notice, later he

resiled and gone back, as such she made him as the second defendant. He executed nominal sale deeds in favour of defendants 4 to 7. As such, she

filed suit for partition.

4. The first defendant died after filing of the written statement. The third defendant died without filing the written statement, as such his son was

added as 8th defendant and he filed the written statement. The purchasers defendant Nos. 4 to 7 filed separate written statements.

5. The trial Court considering the pleadings framed issues in both the suits and also observed that O.S.No.21 of 1977 was transferred to the Court and

renumbered as O.S.No.263 of 1978. The first plaintiff is examined herself as P.W.1 and the natural father of the second plaintiff was examined as

P.W.2 and Exs.A1 to A21 are marked on their behalf. The second defendant was examined as D.W.1 and eighth defendant was examined as D.W.2

and marked Exs.B1 to B338 on their behalf. The trial Court after considering evidence on record stated that partition was done between the parties

under Ex.327 regarding landed properties and each of them got 60 acres of land, but there was no division of house properties mentioned under B & C

Schedules though the second defendant claiming that "Schedule property is his exclusive property."

6. The trial Court after lengthy discussion on entire evidence before the Court arrived to the conclusion that it is joint family property. As the first

defendant died during the pendency of the proceedings, she is not entitled for any share and thus plaintiffs, second and third defendants are entitled for

1/3rd share each in the said schedule properties. It was also observed that plaintiff herself admitted in her evidence that she is in possession of 60

acres of land and other sharers also having 60 acres each and cultivating the said property separately. She further stated that she sold Acs.9-00 gts of

land out of Acs. 60-00 gts for purchasing pumpsets, second defendant erected pumpset in Vasudevapuram lands and he also planted mango trees. It

was also observed as there was partition between the parties under Ex. B327 the sale deed executed by the second defendant in favour of the

defendant Nos. 4 to 7 are valid. There was argument before the trial Court that first plaintiff was widow and she is entitled for maintenance but not

for sharing properties. In fact, she herself stated in the plaint that first defendant is not entitled for share and is only entitled for maintenance but it

seems that in the partition equal shares were allotted to them, moreover the trial Court observed under Section 6 of the Hindu Succession Act initially

life interest vested with the widow and later it was made absolute in the year 1956, as such it cannot be stated that first plaintiff is entitled for

maintenance and not for shares in the properties.

7. Aggrieved by the said order both the parties preferred appeals before the High Court, C.C.C.A.No.86 of 1984 was preferred against the decree in

O.S.No.555 of 1977 by the second defendant in the suit and plaintiffs filed cross appeal in C.C.C.A.No.54 of 1989. During the pendency of the

proceedings before the High Court compromise was entered between the parties on 24.02.1986 and they filed C.M.P.No.4429 of 1989 requesting the

Court to record the compromise and to pass decree accordingly. The compromise was recorded and appeals and also other concerned C.M.Ps are

disposed of accordingly on 07.09.1990.

8. Anasuyamma along with others filed suit in O.S.No.250 of 2007 requesting the Court to declare the gift deed as null and void and also to declare

plaintiffs 1 & 2 as owners of item Nos. 1 to 6 measuring an extent of Ac. 0 ½, -" 30 gts of the suit schedule properties and plaintiff No.3 as the owner

of item No.7 measuring an extent of Ac.1 ½, -" 22 gts and also to enter their names as pattedars in the revenue records by deleting the name of the

first defendant. The trial Court examined the second plaintiff as P.W.1 and marked Exs.A1 to A39 and also examined P.Ws.2, 3, 5, 6 and 10 out of

which P.W.4 is the natural father of P.W.1. The evidence of P.Ws.7, 8 and 9 was eschewed as they were given up by the plaintiffs. The third

defendant in the suit was examined as D.W.1 and got marked Exs.B1 to B23. They also examined independent witnesses as D.W.3 as D.W.2 did not

turn up for cross-examination his evidence was eschewed. The trial Court considering evidence on record and the compromise before the High Court

and the other evidence dismissed the suit. Aggrieved by the said Judgment appeal is preferred and the appellants mainly contended that they filed

transfer application and also mentioned before the trial Court the ground on which it was filed on 26.03.2012. On the same day the matter was posted

for arguments. They requested the trial Court to adjourn the matter after 12.04.2012 and also informed about the transfer application, but the trial

Court hurriedly disposed of the suit without giving any opportunity to them and they did not advance any arguments. They stated that the trial Court

wrongly held that lands in item Nos.1 to 7 are the lands of Manikyamma though item Nos.1, 5 and 6 in Sy.Nos.121/A, 136/AA & 137/A are not the

lands of Manikyamma. They further stated that compromise terms were filed in C.C.C.A.No.86 of 1984 and C.C.C.A.No.22 of 1985 under Ex.A36

and a separate settlement deed under Ex.A37 was executed by the defendant No.1 which was made as part of the compromise but the trial Court

misread Ex.A36 and A37 and held that the documents have no legal sanctity.

9. The defendants are legal heirs of the parties to the C.C.C.A.No.86 of 1984 and C.C.C.A.No.22 of 1985 and thus defendant No.1 cannot resile

from terms of compromise cannot claim right contrary to the Exs.A36 and A37, on this sole ground the gift deed under Ex.A16 is liable to be set

aside. They also stated that the gift deed is not proved by the defendants under Section 68 of the Evidence Act, at least one attester should be

examined as it is compulsorily attestable document. As per the revenue records since 1979 defendant No.1 never cultivated the suit lands, he also

admitted in Ex.A37 that he is not claiming any share in the mother's property and thus he never cultivated the suit lands and thus Exs.A1 to A6

pahanies reflect his name as cultivator, as such he has no right over the lands and plaintiff perfected the title to the suit. The trial Court did not

consider the evidence of the plaintiffs on the ground that some of the witnesses are inimical and some of the witnesses are interested witnesses and

totally relied upon the evidence of defendant. They also contended that the revenue records under Ex.A1 to A15 are the pahanies from 1976-77

onwards till 2004-2005 and Ex.A26 and A27 Old R.O.R and Ryot pass book and also Ex.A28 to A30 were not considered by the trial Court. They

also contended that sufficient opportunity was not given to them to lead rebuttal evidence on the issue of adverse possession though they filed

I.A.Nos.26 & 27 of 2012 for further cross-examination of the D.Ws.1 and 3 they were not permitted and thus requested the Court set aside the

Judgment in O.S.No.250 of 2007 dated 09.04.2012.

10. C.C.C.A.No.86 of 1984 was preferred against B's schedule property and C.C.C.A.No.22 of 1985 is preferred against A's schedule property.

During the pendency of the appeal both parties entered into compromise under Ex.A37 and filed the petition before the Court for recording

compromise under Ex.A36. Considering the same, the Hon'ble High Court in Judgment dated 07.09.1990 recorded the compromise and allowed

C.C.C.A.No.86 of 1984.

11. Plaintiffs in O.S.No.250 of 2007 contended against the Judgment passed by the trial Court on 21.04.1984 in O.S.No.555 of 1977 and O.S.No.263

of 1978 and appeal is preferred by the first defendant in C.C.C.A.No.86 of 1984 and cross appeal is preferred by the plaintiffs. In view of the

compromise between parties vide separate document dated 24.08.1986 appeal of defendant No.1 is allowed and cross appeal is dismissed on

07.09.1990. Plaintiffs stated that lands in Sy.No.13 to an extent of Acs.12 1/2 gts, S.No.14 to an extent of Acs. 11 1/2 gts, Sy.No. 130/A to an

extent of Acs. 4 1/2 gts, Sy.No.131/2 to an extent of Acs.12 1/2 gts, Sy.No.135 to an extent of Acs.7 1/2 gts and Sy.No.2 to an extent of

Acs.4 1/2 gts were allotted to the share of Manikyamma as per the family arrangement under Ex.B327. She never cultivated lands, plaintiffs

herein and father of defendant No.2/Janardhan Reddy cultivated the lands. After the death of Janardhan Reddy defendant No.2 was in possession of

his father's share and sold away his share of lands. Defendant No.1 never demanded for partition of lands which were allotted to the share of

Manikyamma, nor the defendant No.2 took any steps to implement the orders of the Court for the past 20 years and never raised objection for the

possession and enjoyment of the plaintiffs in respect of the suit properties though he is having full knowledge that plaintiffs are cultivating the lands as

absolute owners for the half share along with Janardhanreddy, their possession in the share of Manikyamma is open, without interruption, continuous

for more than statutory period, as such defendant No.1 cannot claim any right in respect of the suit properties.

12. The present suit is filed regarding the property situated at Karkalpahad Village and other lands at Kadthal and Vasudevapuram are the ancestral

lands. Even prior to filing of O.S.No.555 of 1977 and O.S.No.263 of 1978 the lands situated at Vasudevapuram and Sy.No.10 and 15 of Karkalpahad

village were in possession of Madusudan Reddy and lands at Karkalpahad including the suit schedule property are enjoyed by Anasuyamma and

Janardhan Reddy and later his son Venkat Reddy to an extent of half share each. Anasuyamma and her adopted son Venkataraji Reddy are in

possession of S.No.121/A measuring an extent of Acs.3 ½" 17 gts as defendant No.2 sold his half share in favour of natural father of the plaintiff

No.2 vide document No.4044/83 dated 08.11.1983 and delivered possession. Plaintiff No.2 is in possession of the said land as his father is not claiming

any right in respect of the land in Sy.No.130/A to an extent of Acs.2 ½" 13 gts. The father of defendant No.2 sold his half share in favour of

Yadireddy and others. Plaintiff Nos.1 and 2 also sold an extent of Ac.1 ½" 20 gts towards eastern side in favour of one Yadaiah and Krishnaiah and

thus plaintiff Nos.1 and 2 are in possession of only Ac.0 ½" 33 gts in Sy.No.130/A. In Sy.No.2, Acs.2 ½" 12 gts belongs to plaintiff Nos.1 and 2

towards Eastern side out of which an extent of Ac.1 ½" 22 gts towards southern side is sold by the plaintiff No.2 in favour of his sister i.e, plaintiff

No.3 and delivered possession vide document No.1221 of 1998 dated 15.05.1998 and she is in possession of the same. They also stated that after the

settlement between them there was an oral understanding between defendant No.1 and plaintiffs that defendant No.1 shall not claim any right in

Karkalpahad lands which are in possession of the plaintiffs and Venkat Reddy vice-versa. As the defendant No.1 continued his possession in the

Vasudevapuram lands and sold away those lands in favour of several persons and received the sale consideration from them. Plaintiff Nos.1 & 2 and

defendant No.2 were in possession and enjoyment of the land ½ extent each but in the revenue records the lands were mutated in the names of

plaintiff No.1, defendant Nos.1 & 2 nominally, as such it would not create any right in favour of defendant No.1. In the possession column the names

of plaintiffs and defendant No.2 who are enjoyers of half share each from 1989 were reflected. The defendant No.2 sold away major portion of lands

and defendant No.1 sold away his entire share of lands. As the plaintiff No.3 is the purchaser of the item No.7 from plaintiff No.2, she became the absolute owner.

13. Plaintiff No.1 executed the gift deed in favour of plaintiff No.2 out of love and affection and he gave statement before M.R.O in the year 1994.

Later the land was mutated in his name as pattedar but his name was entered only to an extent of 1/3rd share. In the revenue records the name of

defendant No.1 is also showing as pattedar for 1/3rd share. Taking advantage of the same, defendant No.1 is trying to usurp the suit lands. Defendant

No.1 and 2 colluded together and brought into existence the alleged gift deed bearing document No.4257 of 2007. Basing on the said document

defendants are illegally interfering in the possession of the plaintiffs suit lands and also trying to alienate the lands to the third parties. The defendant

No.1 has no right to execute the gift deed as he was never in possession of the suit lands and the matter was settled between them in High Court. Gift

deed is not followed by possession as executants of the gift deed has no existing right and consequently no right will be accrued to the defendant No.3

and it is void and not binding on the plaintiffs. Defendants interfered with their possession on 05.08.2007 and 11.08.2007 and thus they filed suit for

declaring them as owners of item Nos.1 to 6 and an extent of Ac.0 ½ 30 gts towards northern side out of item No.7 and to declare plaintiff No.3 as

owner to an extent of Ac.1 ½ 22 gts in southern side out of item No.7 of plaint schedule property and to restrain defendants from interfering with

possession and also to declare the gift deed bearing document No.4257/2007 dated 24.04.2007 as null and void and to delete the name of defendant

No.1 in the R.O.R from the year 2005-2006 and direct revenue authorities to enter names of plaintiff Nos.1 & 2 as pattedars.

14. In the written statement filed by the defendant Nos.1 to 3 they stated that first plaintiff, as a widow has no right to adopt second plaintiff under

Hindu Adoptions and Maintenance Act. The third defendant is not aware of the adoption dated 29.05.1975. The third plaintiff has nothing to do with

the suit and she cannot pursue her remedies in the suit filed by plaintiffs 1 and 2. The suit is bad for misjoinder of parties. The third plaintiff is not

necessary and proper party, she can file separate suit. Plaintiffs have no right to question the gift deed executed by the first defendant in favour of

third defendant. They compromised before the Hon'ble High Court. The first plaintiff received Rs.2,20,000/- towards her share and also landed

properties in pursuance of the compromise. She sold away the lands that fell to her share and also to the share of first defendant unauthorizedly. In

pursuance of the compromise, the first defendant executed agreement in favour of second defendant regarding house property at Himayatnagar. The

concerned revenue records are the true reflection of the lands and extents owned and possessed by the first plaintiff, first and second defendants. The

first defendant has no lands at Vasudevapuram and Karkalpahad Village. The first plaintiff received Rs.2,20,000/- towards Himayatnagar property

from the first defendant and the compromise was recorded by the High Court. The properties that are claimed by the plaintiffs at present are only the

properties of Manikyamma, as such suit filed for declaration is not legal. In fact, they have to file a suit for partition regarding the share of

Manikyamma. The first and second defendants are entitled to 1/3rd share each, therefore argument of plaintiffs that first plaintiff and second

defendant are entitled to $\frac{1}{2}$ share is false. Manikyamma is in enjoyment of her property and her sons cultivated the lands during her life time and

they were in possession and enjoyment of lands. The lands in Sy.Nos.13 and 14 are in possession of statutory tenants and the family has nothing to do

with the same. Plaintiffs cannot claim adverse possession or exclusive rights over the suit schedule lands. Defendants also stated that

Anasuyamma/first plaintiff is on death bed even prior to the filing of the suit and not contributed her signatures in the plaint as she was in Coma in

August, 2007. The second plaintiff filed the suit to grab the properties of defendant Nos.1 to 3. The suit became infructuous as first plaintiff died

during pendency of suit and she has not given instructions to draft the plaint as she was hospitalized before filing the suit. The second plaintiff has no

right to claim any share and this plaintiff is nothing to do with the suit schedule properties. The sale by the second plaintiff in favour of third plaintiff is

collusive and it is not supported for consideration. The first plaintiff sold away major portion, the second plaintiff still after the death of the first plaintiff

wanted to take undue advantage to grab the property of defendant Nos.1 to 3. The third defendant already executed an agreement of sale in favour of

third parties, the plaintiffs has no right to question the same. The third defendant is the grand son of first defendant as such he executed gift deed in his

favour out of love and affection, therefore requested the Court to dismiss the suit.

15. The trial Court after considering the evidence on record dismissed the suit of the plaintiffs, thus appeal is preferred by the plaintiffs and they

contended that in spite of filing transfer application suit was disposed of hurriedly without giving opportunity to them for advancing arguments and

moreover after framing of additional issues suit is not posted for further evidence. When they filed I.A.Nos.26 and 27 of 2012 it was dismissed and

certified copies of the same were not furnished to them and thus they can't file revision against the said order. They also stated that to prove the

gift deed at least one attesting witness should be examined by the defendants but they failed to do so. Hence, they requested the Court to remand the

matter to the trial Court for providing opportunity to cross-examine defendants 1 to 3 on the aspect of adverse possession.

16. It seems that during the pendency of the proceedings before the appellant Court Anasuyamma died and her adopted son pursuing the litigation.

The defendant in the suit disputed the adoption but Anasuyamma adopted the second plaintiff under Adoption deed dated 29.05.1975 and she also filed

the invitation card under Ex.A23. The natural father of the second plaintiff is also examined as witness before the Court and he admitted regarding

giving of second plaintiff in adoption to the Anasuyamma and the same objection was raised before the trial Court. As the suit is filed for partition and

the partition of the properties was shown prior to the adoption of the second plaintiff, the validity of the adoption was not gone into by the trial Court.

17. No doubt transfer application was filed by the appellants but no stay was granted as the case was already posted for arguments even the

appellants filed written arguments but failed to advance arguments before the Court early, as such trial Court considering the arguments of other side

disposed of the case on merits. However, the evidence of plaintiff before the trial Court was also considered on length.

18. There is no dispute regarding the compromise entered between both the parties before the Hon'ble High Court and the terms of compromise

under Ex.A37 was part and parcel of the Judgment dated 07.09.1990. Therefore, the observation of the trial Court that Ex.A37 has no evidential value

is not proper. After the compromise between both the parties, first plaintiff, defendant Nos.1 and 2 were enjoying their properties separately and also

executed several sale deeds in favour of others till filing of the suit by the second plaintiff in the year 2007 even the defendant in the suit stated that at

the time of filing of the suit by Anasuyamma she was hospitalized and not in a position to give instructions and it is filed by the second plaintiff to grab

their properties. Admittedly, she died during pendency of the proceedings and only her adopted son continuing the litigation. He executed registered

sale deed in favour of his sister and also added her as a party though she is not a necessary party. He filed the suit for declaring gift deed executed by

defendant No.1 in favour of defendant No.3 on the ground that first plaintiff and second defendant are in occupation of the shares allotted to the

Manikyamma since long time and defendant No.1 in the suit has not resisted the same in spite of knowledge though they were in occupation of the

said land from the past 20 years i.e, more than statutory period of 12 years. They are entitled for the said land under adverse possession and thus

defendant No.1 has no right over the said lands and he cannot execute the gift deed in favour of defendant No.3. He mainly contended that first

defendant under Ex.A37 gave up his claim of share in his mother's property in favour of first plaintiff as such he relinquished his share, now he

cannot execute gift deed in favour of defendant No.3. Perusal of Ex.A37 clause reads as follows:

"c) The second party is giving up his claim for share in the mother's property in favour of the first party."

19. Admittedly properties are divided into 1/3 share and accordingly their names were mutated in the records to such an extent though plaintiffs stated

that there was oral understanding between them regarding enjoying the share of Manikyamma by the first plaintiff and second defendant, it is contrary

to the Common Judgment as such defendants rightly contended that second plaintiff has to file suit for partition to claim for his share in the property

allotted to Manikyamma and the suit filed by him for declaration of gift deed as null and void without filing suit for partition is not maintainable. Though

at the time of filing of suit Anasuyamma was party to the proceedings, she died during the pendency of the suit. In fact, first plaintiff, defendant Nos.1

and 2 are members of the Joint Hindu Family all of them agreed that Manikyamma is also entitled for one share as she is mother of defendant Nos.1

and 2. Though first plaintiff raised objection that she is entitled only for maintenance but not for share in the property, it was negated by the trial

Court in view of the subsequent amendments to the Hindu Succession Act. Admittedly suit properties were partitioned between them as per the

compromise agreement entered between them under Ex.A37 even the trial Court in Common Judgment observed that all the landed properties were

divided between them and thus suit was decreed only regarding the house properties under B & C schedule properties. Though appeals preferred

against the said Judgment challenging the order relating to A & B schedule properties, again there was compromise between the parties and after

compromise they were enjoying their properties separately. The second plaintiff is the adopted son of first plaintiff. He stated that though his mother

executed gift deed in his favour regarding her properties and in pursuance of the gift deed he sold one property in favour of his sister, being adopted

son he is entitled for gift deed from his mother but he disputed the gift deed executed by grand-father/defendant No.1 in favour of grand-

son/defendant No.3 on a different footing. The trial Court held that Manikyamma died during the pendency of the suit and thus she is not entitled for

any share and granted decree for 1/3rd share to each of 1st plaintiff, 1st defendant and 2nd defendant. As no share was allotted to Manikyamma, the

claim of plaintiff No.2 that he was enjoying her property along with defendant No.2 has no merit and is not tenable. Admittedly it is a long drawn

litigation therefore the question of remanding matter to the trial Court does not arise. He also contended that it is for the respondents herein to examine

one attesting witness to the gift deed but the suit is filed by the plaintiffs for declaration to cancel the gift deed, as the execution of the gift deed is

never disputed his argument cannot be accepted. Regarding adverse possession the trial Court observed that possession of one coparcener is deemed

to be the possession of all coparceners therefore no one can claim adverse possession in respect of Joint family properties. The trial Court considered

Exs.B12, B20, B21 and B22 filed by the defendants and also observed that as per Ex.A19 and A20 defendants are having right over the properties

though the appellant herein is made as party in the Common Judgment, validity of the adoption was never decided by the trial Court and the division of

properties was only between first plaintiff, 1st and 2nd defendants and even as per his admission he received properties from first plaintiff by way of

gift deed but he has not given the particulars of the gift deed or filed the same before the Court and thus the suit filed by him for declaring the gift

deed executed by defendant No.1 as null and void is not proper and the trial Court rightly dismissed the suit as there is no infirmity in the Judgment, it

needs no interference.

In the result, appeal is dismissed confirming the Judgment of the trial Court in O.S.No.250 of 2007 dated 09.04.2012.

Miscellaneous petitions pending, if any, shall stand closed.